

PSC Update for ETIC Meeting March 11, 2016

NWE Hydro Compliance (D2016.1.8)

When the Commission approved NWE's purchase of PPL Montana's hydroelectric generating facilities in September 2014, it required NWE to submit a final compliance filing in December 2015 to reflect post-closing adjustments, the conveyance of the Kerr project to the Confederated Salish and Kootenai Tribes, and the actual property tax expense for the hydroelectric generating facilities. NWE submitted the required compliance filing on schedule and requested a net revenue increase of about \$32 Million, which represent a 4.7% increase on a typical residential customer's bill. Together with the rate increase approved at the time when the hydro facilities were first put into rates, the cumulative increase in cost to consumers is 9.8%.

The requested revenue increase reflects a number of factors, including an increase in property taxes, reduced revenue credits and rental expenses from the transfer of Kerr, and the effects of the lag between when Kerr was transferred and when rates would be adjusted pursuant to the compliance filing.

On a 3-1 vote, the Commission approved NWE's requested revenue increase on an interim basis and initiated a proceeding to investigate the factors contributing to the increase and allow other interested parties to do the same. The MCC has intervened in that proceeding and has an opportunity to submit testimony on April 1.

The Commission has issued requests for information to NWE about why Kerr's absence from the portfolio does not reduce several major categories of shared costs, and will conduct an on-site audit of this information in Butte next week, alongside the MCC.

NWE Consolidated Electricity Supply Trackers (D2013.5.33 & D2014.5.46)

NWE owns a 222 MW share of the Colstrip Unit 4 generating plant. In the summer of 2013, planned maintenance was performed on the plant and a few days after that maintenance was completed the plant experienced a catastrophic failure which took the plant out of service for a six month period. NWE has requested recovery for costs it incurred to replace the energy that otherwise would have been generated by CU4. The MCC and Montana Environmental Information Center/Sierra Club intervened and opposed NWE's request, asserting that NWE failed to take certain actions that might have mitigated the risk to customers of such an outage.

Pending this hearing, on a 4-1 vote, NWE has been allowed to recover the replacement-power costs of the outage.

A hearing on this matter was held in October 2015. Commission staff are analyzing the record in the case, and the Commission plans to rule on the case at a meeting on March 29.

NWE Electricity Supply Tracker (D2014.7.58)

In this proceeding NWE and MCC reached an agreement that the Commission should approve the recovery of NWE's requested supply expenses after a reduction of about \$650,000 for production tax credits NWE received for its Spion Kop wind facility. The parties also agreed that NWE would not engage a type of market transaction designed to hedge against market volatility

and that NWE should be allowed to include a one-time adjustment in its next supply tracker proceeding for lost revenues attributable to energy efficiency programs that were incurred prior to the Commission's decision terminating the lost revenue adjustment mechanism.

The Commission held a public hearing on the settlement agreement in December 2015. In late February 2016, the Commission on a 5-0 vote approved the settlement between the parties but also determined that further investigation is required into whether certain administrative expenses NWE sought to recover should have been included in the tracker. Among those costs are more than \$1 million in consultant fees that would traditionally be recovered through general rate cases, not a supply tracker which in regulatory practice is typically reserved for third-party energy purchases and the like. The Commission will hold a hearing on this matter in May.

NWE Tax Information Docket (D2015.10.81)

Voicing concerns of the effect that a state law regarding utility taxes has on consumers, the Commission voted 4-1 on January 25, 2016 to require NorthWestern Energy to create a proposal for increasing the transparency of taxes in customers' monthly bills.

Throughout discussion during a work session on the issue, the Commission criticized a Montana law that allows taxes for Northwestern Energy to automatically pass through to their customers with very little PSC input, and also criticized the Montana Department of Revenue's method of calculating NorthWestern Energy's tax bill.

NorthWestern Energy's 2015 tax bill increased by over \$22 million from last year, due in large part to the 2014 purchase of 11 hydroelectric dams from PPL. Montana law allows NorthWestern energy to automatically recover their tax bill from their customers without any approval from the PSC, less a deduction for its income-tax impacts.

In the 2015 legislative session, HB 190 would have ended the automatic pass through of NorthWestern's taxes to their customers. The Commission unanimously supported the bill, but it failed to pass. The Commission remains deeply concerned that when a taxpayer lacks a strong financial incentive to control property-tax expense, perverse results that are harmful to consumers will ensue.

In an effort to better inform customers of the portion of their bill attributed to taxes, the PSC's order requires NorthWestern Energy to create a proposal to calculate the specific dollar amount that each customer pays in taxes on their bill every month, as well as create a proposal to remove recovery of taxes out of fixed rates and include all taxes in a single volumetric rate.

The PSC's decision followed a roundtable discussion held in December with Northwestern Energy and Department of Revenue officials. At the roundtable, the Commission probed DoR on their valuation methods, as well as NorthWestern Energy on their efforts to reduce their tax bill and their methods of disclosure to customers.

NWE 2015 Resource Procurement Plan (N2015.11.91)

Pursuant to § 69-8-419 & 420 MCA, NWE must develop and submit to the Commission electricity supply resource procurement plans. Commission rules require NWE to submit these

plans every two years in December. The plans must demonstrate that NWE is achieving statutory objectives including:

- The provision of adequate service at just and reasonable rates based
- Planning for future needs and evaluating the full range of demand and supply resource options
- Using competitive procurement methods whenever
- Identifying, managing, and mitigating risks

Pursuant to Commission rules, NWE was required to submit a plan in December 2015. However, in November it requested an extension to March 31, 2016, which the Commission granted.

The Commission was critical of some aspects of NWE's 2013 plan, including:

- The way it accounted for the potential impacts of CO2 regulation
- The limited number of future scenarios it evaluated
- Failure to make full use of the capabilities of new planning software

The Commission's comments on NWE's 2013 plan asked NWE to address a number of issues in its 2015 plan, including:

- Impacts of net metering
- Methods for assessing resource adequacy
- Ways to optimize existing resources to more efficiently provide wind integration
- The effects of evolving wholesale markets
- Energy efficiency potential

NWE Natural Gas Rate Case (Docket number not yet assigned)

In the last five years, NWE has acquired several natural gas producing properties and is recovering the cost of owning and operating these properties outside of a typical rate case, through a bridge mechanism housed in the natural gas supply tracker. NWE argues the acquisition of the properties is cost-justified because the lifecycle cost to consumers of owning the properties will be less than if purchasing the gas from the market.

In a recent tracker case (D2013.3.34 & D2014.5.47), the Commission unanimously determined that if this ratemaking practice was retained for the gas production assets, it may be impossible for customers ever to realize the value that NWE projected. The problem stems from setting rates based on the first year's ownership costs, which can remain fixed for a significant period of time, chronically overstating the property's actual costs, which decrease over time.

To address this concern, the Commission required NWE to submit a comprehensive filing by October 2016 that includes the information necessary to calculate rates under a range of regulatory approaches for recovering the costs of owning and operating the gas production fields. The Commission expects that NWE may comply with this requirement by filing a general natural gas rate case.

PSC LRAM Decision and Decoupling (D2014.6.53)

The Commission issued a decision to terminate NWE's lost revenue adjustment mechanism (LRAM) in October 2015, as reported in the Commission's prior updates to the Committee. In that proceeding, the Commission provided NWE multiple opportunities to propose a decoupling mechanism. It failed to do so. In its Order terminating the LRAM, the Commission specifically invited NWE to propose a decoupling mechanism as an alternative to the LRAM. It has not yet done so, although the Commission remains available to process any such filing if and when NWE submits it.

MDU Settlement (D2015.6.51)

The Commission held a hearing on February 9 & 10 regarding MDU's rate increase application that was submitted to the PSC last June. The original application requested an \$11.7 million total revenue increase, or about 21%.

At that hearing, MDU, the Large Customer Group and the Montana Consumer Counsel presented a stipulation to the Commission, decreasing the rate increase amount to \$7.4 million. The stipulation states that the rate increase would be phased in over two years.

The first "phase in" would be a \$3 million increase as of April 16, 2016. The second "phase in" would equal a \$4.4 million rate increase as of April 1, 2017. Rates increases on customer classes range from about \$1.5 million (or 9.12%) for the residential customer class to about \$2.6 million (or 18.5%) for the large general service (commercial businesses) customer class. The Commission is scheduled to make a final decision on this matter later this afternoon.

MDU QF Standard Rates (D2015.7.59)

In July 2015 MDU requested approval to modify its standard rates available to small QFs. The MCC has intervened in the case. The Commission and the MCC have engaged in discovery. The Commission just last week identified a number of additional issues it wants the parties to address. A hearing in the case is tentatively scheduled for May 9, 2016.

Mountain Water – (D2016.2.15 & D2014.12.99)

On February 1, the Commission moved to file a complaint in Montana District Court to levy fines against Mountain Water Co., and their new parent company Liberty Utilities, for the unauthorized sale and transfer of the Missoula water system.

Following a work session that included discussion of comments submitted by parties involved in the sale proceeding before the PSC, the Commission voted 5-0 to take legal action against Mountain Water and Liberty Utilities. The Commission cited its authority under Montana law, and a previous PSC order as justification for the legal action.

Additionally, the Commission opened on a 4-1 vote a proceeding to consider changes to Mountain Water's rates based on changes that have occurred in the utility's upstream cost of capital.

The Commission directed PSC staff to consult with the Montana Attorney General's office to explore other remedies to address the unauthorized sale and transfer of Mountain Water, as well as pursue fines against the companies in Montana District Court.

Pursuant to Montana law, if a public utility commits a violation, it is subject to penalties not less than \$100 or more than \$1000 per violation. Such fines shall be recovered in a civil action initiated by the Commission.

The Commission took further action on March 1 to proceed with an investigation in to the rates of Mountain Water Co., including the approval of several parties to intervene in the proceeding, and the continuation of an inquiry into possible violations of a previous Commission order by Mountain Water.

On a 5-0 vote the Commission approved the intervention of the Montana Consumer Counsel, the City of Missoula and the Clark Fork Coalition to the rate investigation docket that the Commission opened at the end of January.

The Commission also voted unanimously to request further documentation from Mountain Water regarding possible violations of "ring fencing" provisions in a previous commission order from the last sale and transfer of Mountain Water in 2011. If Mountain Water is found to have violated those provisions, the Commission may suspend the upstream flow of dividends to Mountain Water's parent company, Liberty Utilities.

The Commission has thus far not implemented a rate change for Mountain Water, citing the need to gather more information in the investigation before adjusting rates. An expedited investigation proceeding has been established with a hearing expected to be held in April.

L&L Site Services (T-15.23.PCN)

Citing the need for additional waste management service providers in parts of Gallatin and Madison Counties, the Montana Public Service Commission approved in March, on a 3-2 vote, a Class D license for L&L Site Services, LLC. to operate in specific locations within the two counties.

The Commission approved the application on a limited basis to allow L&L Site Services to operate in all of Gallatin County, Big Sky and Moonlight Basin.

L&L Site Services first applied for a class D license with the Commission in 2010. That original application was not approved. L&L Site Services again applied for a Class D License in May of 2015 and a three day hearing was held on that application last November.

The current waste management service providers in the area include the City of Bozeman, Allied Waste Services of North America (Republic) and MCGree Corporation.

Greycliff Petition for Qualifying Facility Rates (D2015.8.64)

In August 2015 Greycliff Wind Prime, LLC petitioned the Commission pursuant to MCA § 69-3-603 to set the terms and conditions of a contract with NWE. The MCC intervened in the case

and the Commission issued a procedural order in September 2015. The parties engaged in discovery and NWE and MCC filed testimony in response to Greycliff's petition. Since December 2015, the proceeding has largely been on hold while NWE and Greycliff attempt to negotiate mutually agreeable contract terms.

PSC Inquiry into Implementation of PURPA (N2015.9.74)

In September 2015 the Commission initiated an inquiry into its implementation of PURPA, as it pertains to NWE. The Commission determined that NWE's acquisition of hydroelectric resources had significantly changed its existing resource mix and load-resource balance, and warranted an investigation of several issues, including: (1) Methods for estimating avoided costs; (2) standard rate design, including technology-specific rates, contract length, levelization, performance-based rate adjusters, and standard contracts; (3) market price forecasting methods; (4) resource capacity values; and (5) requirements for creating a "legally enforceable obligation" under PURPA.

The Commission provided interested persons opportunities to submit comments on the identified issues, and any other issues, in October and November 2015. The Commission has scheduled a public meeting for May 3, 2016, at which the Commission and interested persons will discuss PURPA implementation issues further.

Energy West Incorporated Debt Refinancing and Reorganization (D2016.2.17)

A prior Commission docket inquired into EWI's need to increase debt, refinance existing debt, complete a corporate reorganization and sell off one of its subsidiary entities. In that case, EWI made several proposals, none of which were truly acceptable to the Commission. Unfortunately, absent some kind of action, EWI faced bankruptcy, which might have posed risks for customers. Ultimately, the Commission approved several of EWI's proposals, with certain limitations and on the condition that EWI file a new debt facility application by April 2016. This case is the result of that prior Commission decision. In this case, EWI has applied for a new debt facility and a corporate reorganization. EWI states that it has obtained stand-alone and unsecured financing and that its new corporate structure will simplify and streamline all entities, both parent and subsidiary, of EWI. The Commission has noticed receipt of EWI's application and the deadline for intervention is March 11, 2016.

CREP Waiver (D2015.3.27)

On March 25, 2015, NorthWestern Energy (NWE) filed a Petition for a Waiver from Compliance with the CREP Purchase Obligation for Calendar Year 2014. Citing "reasons beyond its control," NWE asserted that it undertook all reasonable steps to comply with the CREP requirement.

After proportionately allocating the 50 MW requirement based on its retail sales of electrical energy in Montana in 2011, NWE is responsible for approximately 44 MW of the total requirement. NWE has obtained 25.055 MW towards its CREP obligation since 2011, leaving it 18.9 MW short of its requirement in 2014.

Timeline

- August 2009: NWE solicited CREP proposals in RFI
- June 2011: NWE filed petition for CREP waiver for 2012-2014
- June 2012: Commission approved waiver for 2012, denied for 2013-2014
- Late spring 2012: NWE began work with Lands Energy for RFP
- August 2012: RFP issued
- January 2013: Congress approved PTC extension
- September 30, 2013: WAPA denied integration request for Compass Wind's Opheim project
- October 31, 2013: NWE submitted petition for CREP waiver for 2013
- October 2013: RFP issued for PPAs only (precluded Build-Transfers (B-T) from consideration)
- December 9, 2014: Commission reversed Order 7177b denial and approved waiver for 2013
- December, 2013: NWE entered into PPAs with Crazy Mountain and Greycliff
- January, 2014: Crazy Mountain and Greycliff petitioned Commission for declaratory ruling of CREP status
- March, 2014: Commission denied declaratory rulings for Crazy Mountain and Greycliff
- June 2014: RFP issued
- March 25, 2015: NWE filed petition for CREP waiver for 2014

On February 29, 2016, the Commission held a formal hearing for NWE's petition for CREP waiver for the year of 2014. The Commission is expected to make a final decision on the waiver sometime in April.

Net Metering

When it comes to net metering policy in Montana, it is important to establish and maintain rate structures that are fair to both customer-generators and customers who do not net meter. At the moment, customer-generators receive compensation equal to the full retail rate for the kilowatt-hours they produce within a 12-month period, and the PSC has not conducted an investigation to ascertain whether a different rate of compensation is reasonable.

State law already gives the PSC the ability (§ 69-8-601 et seq., MCA) to establish such a rate, but the PSC has waited to see if the legislature will make significant revisions to policy before it begins a docket. The Commission does not wish to duplicate the work of ETIC in its consideration of SJ 12. The Commission views it as necessary for ETIC to provide unambiguous guidance on exactly what it wants from the Commission, if anything.

The Commission believes that there might be preliminary work that the PSC could undertake, which could help assure legislators that existing cost-shifts can be mitigated regardless of whether the current statutory distributed-generation policy is changed. Essentially, there are two parts to the work the PSC would have to undertake if it were to open a docket on this matter: 1) creating a formula or equation that allocates costs, offset by benefits, to customers who own distributed generators; and 2) populating that equation with data to “solve” it, thus creating a rate.

It could be productive for our agency to undertake the *first part* of that work. Specifically, after a proceeding where we hear from all interested parties, the Commission could direct utilities to apply a methodology or equation, with a target completion date by the end of this year. This process could provide legislators a measure of comfort, in considering any changes to net-metering policy, that consumer-generators are not being overcompensated or undercompensated for their systems.